

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

TORRANCE UNIFIED SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2014020044

ORDER DENYING STUDENT'S
MOTION FOR CONTINUANCE

On January 31, 2013, Torrance Unified School District (District) filed a complaint with Office of Administrative Hearing (OAH), naming Student. Pursuant to a February 21, 2014 order by Administrative Law Judge (ALJ) Clifford H. Woosley, OAH issued a new scheduling order, setting the mediation for March 11, 2014, the prehearing conference (PHC) for March 14, 2014, and the due process hearing for March 18, 2014.

On February 27, 2014, Student's parent and conservator (Parent) file a request to continue the dates in this matter, stating that the current dates did not allow ample time to seek representation and to prepare. Parent requested mediation on April 11, 2014, a PHC on April 14, 2014, and a hearing of April 18, 2014.

On March 3, 2014, District filed an opposition, stating that Student's unilaterally chosen dates are for a time when the District's attorney would be out of state. District provided proof of the attorney's prior purchase of airline tickets. District also indicated that Parent has already retained counsel, attaching a February 27, 2014, letter from attorney Margaret McNair as an exhibit. Ms. McNair stated she had been retained by Parent on behalf of Student and referred to an included authorization for Student's records, which was signed by Parent on February 26, 2014.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a

party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request for continuance is denied for three reasons. First, Parent has not talked to District's counsel to seek agreeable dates for continuance. Second, Parent unilaterally chose dates when District's counsel would be out of state. Third, Parent's reason for the continuance is unclear, since the documents submitted in opposition indicate Parent signed an authorization with attorney McNair the day before Parent filed the request to continue.

ORDER

1. The Student's motion to continue is denied.
2. District is instructed to serve its opposition on attorney Margaret McNair forthwith and to file a proof of service with OAH.
3. OAH shall serve this order to the attention of attorney Margaret McNair, Hope4Families, via fax at (866) 334-4359. Ms. McNair shall thereafter inform OAH and District counsel if she represents Student and Parent in this due process proceeding.

DATE: March 03, 2014

/s/

CLIFFORD H. WOOSLEY
Administrative Law Judge
Office of Administrative Hearings